

1 BILL NO. G-92-01-41 (AS AMENDED)

3 GENERAL ORDINANCE NO. G-06-92

4 AN ORDINANCE amending Chapter 13 of the City
5 of Fort Wayne Code of Laws.

6 WHEREAS, the present ordinance entitled Environmental Public
7 Nuisances is in need of revision.

8 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
9 CITY OF FORT WAYNE, INDIANA:

10 Section 1.

11 That Chapter 32 of the Municipal Code of the City of Fort
12 Wayne is repealed.

13 Section 2.

14 That there is hereby established and adopted a revised
15 ordinance which shall constitute a new Chapter 32 of the Municipal
16 Code of the City of Fort Wayne as follows:

17 CHAPTER 32. WEEDS AND OTHER ENVIRONMENTAL NUISANCES

18	Sec. 32-1.	Purpose and intent.
19	Sec. 32-2.	Definitions.
20	Sec. 32-3.	Application of Chapter.
21	Sec. 32-4.	Prohibited activity.
22	Sec. 32-5.	Determination of violation.
23	Sec. 32-6.	Enforcement
24	Sec. 32-7.	Penalty
25	Sec. 32-8.	Property owner or occupant's right to object to complaint.
26	Sec. 32-9.	Severability.

27 Section 32-1. Purpose and Intent

28 It is hereby declared to be the purpose of this chapter to
29 protect the public safety, health, and welfare and enhance the
30 environment of the people of the city by making it unlawful to
31 allow an environmental public nuisance to exist.

32 Section 32-2. Definition

For the purpose of this chapter, the following terms shall
have the following meanings. The word "shall" is mandatory and not
merely directory.

- (a) "Authorized Employee" means an individual designated to make
environmental public nuisance inspections, by the Department
of Neighborhood Code Enforcement or the head of any
governmental department of the City of Fort Wayne, which
department has been designated by the Mayor of the City of

department has been designated by the Mayor of the City of Fort Wayne to enforce this chapter.

(b) "City" means the City of Fort Wayne.

(c) "Environmental public nuisance" is:

(1) any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.

(2) Any accumulation of dead weeds, grass or brush on private or governmental property.

(3) Any poison ivy, ragweed, or other poisonous plant, or plants detrimental to health, growing on any private or governmental property.

(4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.

(d) "Excluded property" means land cultivated for gross profit in a commercial, agricultural or horticultural zone; a natural or developed forest, which does not create a health or safety hazard, which conforms to Management Series No. 2 of the Indiana Department of Natural Resources or is registered, or adjoining landowners; vacant and open lands, fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3, RA and RB districts (residential) are not to be considered excluded property, and will constitute a violation of this ordinance.

(e) "Governmental property" means real estate within the City of Fort Wayne which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof: excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.

(f) "Inspector" means an employee of Neighborhood Code Enforcement or any other governmental department of the City of Fort Wayne, so designated by the Mayor of the City of Fort Wayne having law enforcement powers to issue city ordinance violation summons in order to enforce the provisions of this chapter.

(g) "Owner" shall be presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or

(2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of such real estate under

any contract for the conditional sale thereof.

(h) "Private property" means all real estate within the City of Fort Wayne, except governmental property.

(i) "Traffic Hazard" means any environmental public nuisance that is potentially dangerous to the existing traffic at the intersection in question, as it may block or prohibit the view of any oncoming traffic. If the inspector finds a violation pursuant to such definition of "traffic hazard", he/she shall find it necessary to waive the five day grace period and abate the problem as soon as possible.

Section 32-3. Application of Chapter

(a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.

(b) Each owner of private property shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited Activity

It shall be unlawful for any owner of private property or governmental property to allow an environmental public nuisance to exist on that property, except on excluded property.

Section 32-5. Determination of Violation

(a) Complaint. Violations under this Chapter shall be cited by any department of the city which receives a complaint regarding an environmental public nuisance on any property within the city, and they shall forward that complaint to the Department of Neighborhood Code Enforcement.

(b) Assignment of Complaint. The Neighborhood Code Enforcement office shall thereafter forward the complaint to the inspector for processing, who in turn, shall follow that case through to its resolution.

(c) Notice to Abate. When a complaint addresses private property, the inspector, through the Department of Neighborhood Code Enforcement, shall cause a written notice to abate to be served upon the owner of the property in question, granting that owner a minimum of five (5) calendar days in which to remove the environmental nuisance.

This notice shall be served by a law enforcement officer, by certified mail to the owner, or by a "notice" placard conspicuously posted on the property which contains the following information:

the address of the property, the date of the notice, the address and the telephone number of the Department of Neighborhood Code Enforcement, and a warning that if the environmental public nuisance is not removed within five

1 (5) calendar days after the posting, the City of Fort
2 Wayne will abate said nuisance and seek recovery of the
3 actual costs involved in the removal of the nuisance.
4 The inspector, after posting a notice to abate, shall
5 serve to the owner of the subject property a copy of the
6 notice by regular 1st class United States mail postage
7 prepaid, and provided further that any failure to give
8 such written notice shall not constitute a defense to
9 any action to enforce the provisions of Section 32.4.

6 (d) Publication of Notice. In lieu of the notice required by
7 Section 32-5(c), the City, through the Department of
8 Neighborhood Code Enforcement, may publish a notice in a
9 newspaper of general circulation in the city, on two separate
10 occasions, during the month of March, that weeds not cut by
11 May 1st of that year will be cut by the City and the owner of
the property charged with the costs under the provisions of
Section 32-5(c). The publication shall contain all of the
information required of the "Notice to Abate". The city may
cut weeds as many times as is necessary and charge the actual
cost to the property owner.

12 (e) Inspection. Following the expiration of the notice to abate,
13 an inspector shall visually inspect the property to determine
14 whether an environmental public nuisance exists. If an
environmental public nuisance exists, action shall be taken
to abate that nuisance in accordance with this ordinance.

15 (f) Abatement by City on Governmental Property. Where the
16 complaint addresses governmental property, and it is
17 determined by the inspector that a violation exists and
threatens the health and safety of the people of the City,
the inspector may direct the City to immediately enter upon
the premises and remove the environmental public nuisance.

18
19 **Section 32-6. Enforcement.**

20 (a) Citation for Violation. If the inspector that an
21 environmental public nuisance exists on private property and
22 has not been abated as directed in the written notice to
abate, or Section 32-5(d), that inspector may cause a
citation for violation of city ordinance to be issued to the
offending property owner.

23 (b) Abatement by City on Private Property. In addition to the
24 issuance of a citation for violation of City Ordinance under
25 Section 32-6(a), the inspector, in the name of the Controller
26 of the City of Fort Wayne, may issue a request to the City of
27 Fort Wayne to abate the environmental public nuisance, and
shall thereafter furnish the Controller with a statement of
the actual cost involved in the removal of the nuisance. The
actual abatement may be assigned to a city department or
contracted out through standard procedures.

28 (c) Responsibility of Offender for Costs of Enforcement.
29 Neighborhood Code Enforcement shall make a statement of the
30 actual cost incurred in eliminating the environmental public
31 nuisance. The costs shall include: cost of removal of the
32 public nuisance, administrative fees, not to exceed \$100 and
all recording fees associated with the collection of the
outstanding balance. Said statement shall be delivered to

1 the property owner by first-class mail. The owner shall pay
2 the amount noted to the City of Fort Wayne within thirty (30)
3 days after receipt, which shall be deposited in the Unsafe
4 Building Fund.

- 5 (d) Failure to Pay. If the owner fails to pay the amount within
6 thirty (30) days after receiving a statement, a copy of all
7 costs shall be filed in the Office of the Auditor of Allen
8 County for the purpose of placing the amount claimed on the
9 tax duplicate against the property so that the amount claimed
10 can be collected as taxes are collected, subject to the
11 limitations above.

12 **Section 32.7. Penalty.**

13 Except as otherwise provided herein, any owner or occupant
14 violating this chapter shall be fined not less than twenty-five
15 Dollars (\$25). Each day such violation is permitted to continue
16 may be deemed to constitute a separate offense. Each second and
17 subsequent offense shall carry a minimum fine of not less than
18 fifty dollars (\$50). In addition to any fine imposed herein, the
19 offender shall be responsible for all costs of abatement and the
20 twenty-five dollar (\$25) record search fee.

21 **Section 32.8. Property Owner or Occupant's Rights to Object to
22 Complaint.**

23 Upon receipt of a Notice to Abate, the property owner or
24 occupant served, or his duly authorized representative may notify
25 the Department of Neighborhood Code Enforcement of an intent to
26 object to any Notice to Abate. This correspondence shall be in
27 writing, and shall specify the street address, and legal
28 description of the property involved. Any such correspondence must
29 be received by the Department of Neighborhood Code Enforcement
30 within the amount of time set out in the Notice to Abate.

31 Upon receipt of such correspondence, the Department of
32 Neighborhood Code Enforcement shall provide copies of same to the
City Attorney and to the inspector involved, who shall cause the
objection to be investigated. No further action shall be pursued
against the owner to abate the environmental public nuisance until
resolution of the objection thereto.

33 **Section 32-9. Severability.**

34 If any provision or term of this chapter, or any application
35 thereof, is held invalid, the invalidity shall not affect other
36 applications of the provisions or terms of this chapter which
37 reasonably can be given effect without the invalid provision or
38 term or the application thereof.

39 **Section 3.**

40 It is the express intent of this Ordinance to adopt I.C. 36-7-
41 10-3.

42 **Section 4.**

Notwithstanding any provisions of this ordinance, this
ordinance shall not be construed to repeal any former ordinance as

1 to any offense committed against such former ordinance or as to any
2 act done, any penalty, forfeiture or punishment so incurred or any
right accrued or claim arising under the former ordinance.

3 Section 5.

4 That this ordinance shall be in full force and effect from and
5 after its passage and any and all necessary approval by the Mayor
and due publication.

6
7 Council Member

8
9 Approved as to form and legality.

10
11 J. Timothy McCaulay
12 J. Timothy McCaulay, City Attorney

Bill No. 92-01-41

General Ordinance No. 92-

GENERAL ORDINANCE NO. G-09-88
(as amended)

An Ordinance Concerning Environmental Public Nuisances

Whereas, the present ordinance entitled Environmental Public Nuisances is in need of revision.

Now, therefore, be it ordained by the Common Council of the City of Fort Wayne, Indiana:

Section 1. That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

Section 2. That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

Environmental Public Nuisances

Section 32-1. Purpose and Intent

It is hereby declared to be the purpose of this chapter to protect the public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful to allow an environmental public nuisance to exist.

Section 32-2. Definition

For the purpose of this chapter, the following terms shall have the following meanings. The word "shall" is mandatory and not merely directory.

(a) "Authorized Employee" means an individual designated to make environmental public nuisance inspections, by the Department of Neighborhood Code Enforcement or the head of any governmental department of the City of Fort Wayne, which department has been designated by the Mayor of the City of Fort Wayne to enforce this chapter.

(b) "City" means the City of Fort Wayne.

(c) "Environmental public nuisance" is:

(1) any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.

(2) Any accumulation of dead weeds, grass or brush on private or governmental property.

(3) Any poison ivy, ragweed, or other poisonous plant, or plants detrimental to health, growing on any private or governmental property.

- (4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.
- (d) "Excluded property" means land cultivated for gross profit in a commercial, agricultural or horticultural zone; a natural or developed forest, which does not create a health or safety hazard, which conforms to Management Series No. 2 of the Indiana Department of Natural Resources or is registered, or adjoining landowners; vacant and open lands, fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3, RA and RB districts (residential) are not to be considered excluded property, and will constitute a violation of this ordinance.
- (e) "Governmental property" means real estate within the City of Fort Wayne which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof: excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.
- (f) "Inspector" means an employee of Neighborhood Code Enforcement or any other governmental department of the City of Fort Wayne, so designated by the Mayor of the City of Fort Wayne having law enforcement powers to issue city ordinance violation summons in order to enforce the provisions of this chapter.
- (g) "Owner" shall be presumed to be any one or more of the following:
- (1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or
 - (2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or
 - (3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.
- (h) "Private property" means all real estate within the City of Fort Wayne, except governmental property.
- (i) "Traffic Hazard" means any environmental public nuisance that is potentially dangerous to the existing traffic at the intersection in question, as it may block or prohibit the view of any oncoming traffic. If the inspector finds a violation pursuant to such definition of "traffic hazard", he/she shall find it necessary to waive the five day grace period and abate the problem as soon as possible.

Section 32-3. Application of Chapter

- (a) Each department or agency of the United States, the State of Indiana, or any political subdivision thereof, shall be required to keep governmental property free from environmental public nuisances.

- 1 (b) Each owner of private property shall be required to keep that
2 private property free from environmental public nuisances.

3 **Section 32-4. Prohibited Activity**

4 It shall be unlawful for any owner of private property or
5 governmental property to allow an environmental public
6 nuisance to exist on that property, except on excluded
7 property.

7 **Section 32-5.**

- 8 (a) Complaint. Violations under this Chapter shall be cited by
9 any department of the city which receives a complaint
10 regarding an environmental public nuisance on any property
within the city, and they shall forward that complaint to the
Department of Neighborhood Code Enforcement.

- 11 (b) Assignment of Complaint. The Neighborhood Code Enforcement
12 office shall thereafter forward the complaint to the
inspector for processing, who in turn, shall follow that case
13 through to its resolution.

- 14 (c) Notice to Abate. When a complaint addresses private
15 property, the inspector, through the Department of
Neighborhood Code Enforcement, shall cause a written notice
16 to abate to be served upon the owner of the property in
question, granting that owner a minimum of five (5) calendar
days in which to remove the environmental nuisance.

17 This notice shall be served by a law enforcement officer, by
18 certified mail to the owner, or by a "notice" placard
conspicuously posted on the property which contains the
following information:

19 the address of the property, the date of the notice, the
20 address and the telephone number of the Department of
Neighborhood Code Enforcement, and a warning that if the
21 environmental public nuisance is not removed within five
(5) calendar days after the posting, the City of Fort
22 Wayne will abate said nuisance and seek recovery of the
actual costs involved in the removal of the nuisance.
23 The inspector, after posting a notice to abate, shall
serve to the owner of the subject property a copy of the
24 notice by regular 1st class United States mail postage
prepaid, and provided further that any failure to give
25 such written notice shall not constitute a defense to
any action to enforce the provisions of Section 32.4.

- 26 (d) Publication of Notice. In lieu of the notice required by
27 Section 32-5(c), the City, through the Department of
Neighborhood Code Enforcement, may publish a notice in a
28 newspaper of general circulation in the city, on two separate
occasions, during the month of March, that weeds not cut by
29 May 1st of that year will be cut by the City and the owner of
the property charged with the costs under the provisions of
30 Section 32-5(c). The publication shall contain all of the
information required of the "Notice to Abate". The city may
31 cut weeds as many times as is necessary and charge the actual
32 cost to the property owner.

1 (e) Inspection. Following the expiration of the notice to abate,
2 an inspector shall visually inspect the property to determine
3 whether an environmental public nuisance exists. If an
environmental public nuisance exists, action shall be taken
to abate that nuisance in accordance with this ordinance.

4 (f) Abatement by City on Governmental Property. Where the
5 complaint addresses governmental property, and it is
6 determined by the inspector that a violation exists and
7 threatens the health and safety of the people of the City,
the inspector may direct the City to immediately enter upon
the premises and remove the environmental public nuisance.

8 **Section 32-6. Enforcement.**

9 (a) Citation for Violation. If the inspector that an
10 environmental public nuisance exists on private property and
11 has not been abated as directed in the written notice to
abate, or Section 32-5(d), that inspector may cause a
citation for violation of city ordinance to be issued to the
offending property owner.

12 (b) Abatement by City on Private Property. In addition to the
13 issuance of a citation for violation of City Ordinance under
14 Section 32-6(a), the inspector, in the name of the Controller
of the City of Fort Wayne, may issue a request to the City of
15 Fort Wayne to abate the environmental public nuisance, and
16 shall thereafter furnish the Controller with a statement of
the actual cost involved in the removal of the nuisance. The
actual abatement may be assigned to a city department or
contracted out through standard procedures.

17 (c) Responsibility of Offender for Costs of Enforcement.
18 Neighborhood Code Enforcement shall make a statement of the
19 actual cost incurred in eliminating the environmental public
20 nuisance. The costs shall include: cost of removal of the
21 public nuisance, administrative fees, not to exceed \$100 and
22 all recording fees associated with the collection of the
outstanding balance. Said statement shall be delivered to
the property owner by first-class mail. The owner shall pay
the amount noted to the City of Fort Wayne within thirty (30)
days after receipt, which shall be deposited in the Unsafe
Building Fund.

23 (d) Failure to Pay. If the owner fails to pay the amount within
24 thirty (30) days after receiving a statement, a copy of all
25 costs shall be filed in the Office of the Auditor of Allen
26 County for the purpose of placing the amount claimed on the
tax duplicate against the property so that the amount claimed
can be collected as taxes are collected, subject to the
limitations above.

27 **Section 32.7. Property Owner or Occupant's Rights to Object to** 28 **Complaint.**

29 Upon receipt of a Notice to Abate, the property owner or occupant
30 served, or his duly authorized representative may notify the
31 Department of Neighborhood Code Enforcement of an intent to object
32 to any Notice to Abate. This correspondence shall be in writing,
and shall specify the street address, and legal description of the

1 property involved. Any such correspondence must be received by the
2 Department of Neighborhood Code Enforcement within the amount of
time set out in the Notice to Abate.

3 Upon receipt of such correspondence, the Department of Neighborhood
4 Code Enforcement shall provide copies of same to the City Attorney
5 and to the inspector involved, who shall cause the objection to be
6 investigated. No further action shall be pursued against the owner
7 to abate the environmental public nuisance until resolution of the
objection thereto.

7 **Section 32-8. Severability.**

8 If any provision or term of this chapter, or any application
9 thereof, is held invalid, the invalidity shall not affect other
10 applications of the provisions or terms of this chapter which
reasonably can be given effect without the invalid provision or
term or the application thereof.

11 Section 3. It is the express intent of this Ordinance to adopt I.C.
12 36-7-10-3.

13 Section 4. Notwithstanding any provisions of this ordinance, this
14 ordinance shall not be construed to repeal any former ordinance as
15 to any offense committed against such former ordinance or as to any
16 act done, any penalty, forfeiture or punishment so incurred or any
17 right accrued or claim arising under the former ordinance.

18 Section 5. That this ordinance shall be in full force and effect
19 from and after its passage and any and all necessary approval by
20 the Mayor and due publication.

21 
22 Janet G. Bradbury, Councilmember

23 APPROVED AS TO FORM
24 AND LEGALITY

25 
26 J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Edmonds, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 1-28-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds, seconded by Bradbury, and duly adopted, placed on its passage. PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8			1
BRADBURY	✓			
EDMONDS	✓			
GiaQUINTA	✓			
HENRY	✓			
LONG	✓			
LUNSEY	✓			
RAVINE				✓
SCHMIDT	✓			
TALARICO	✓			

DATED: 2-11-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ (GENERAL)

~~(SPECIAL)~~ ~~(ZONING)~~ ORDINANCE RESOLUTION NO. G-06-92
on the 11th day of Feb., 1992

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Thomas E. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of Feb., 1992, at the hour of 11:30 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 20th day of February, 1992, at the hour of 8:30 o'clock A. M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR



MEMORANDUM

TO: Members of the City Council

FROM: Greg Purcell, ~~Director~~, Community & Economic Development

DATE: January 28, 1992

SUBJECT: Amendment to the Environmental Public Nuisances Ordinance

BACKGROUND

G-92-01-41

Recent Council action has transferred responsibilities for "environmental public nuisances" from the Allen County Board of Public Health to the City of Fort Wayne Department of Neighborhood Code Enforcement. This action requires that the ordinance be revised to reflect the appropriate name of the enforcement authority, as well as to make some other changes in the ordinance.

HIGHLIGHTS OF PROPOSED ORDINANCE

Enforcement Authority: Neighborhood Code Enforcement Department

The name of the enforcement agency is changed from the Allen County Board of Public Health to Neighborhood Code Enforcement to avoid confusion for the enforcement authority and the general public.

Traffic Visibility Hazards

The ordinance adds a new term under Section 32-2 Definition: "traffic hazard" has been defined to include environmental nuisances that block or prohibit view of oncoming traffic. The section includes a provision for waiver of the standard five (5) day grace period for removal of the violation and the authority to abate the problem as soon as possible.

Eliminate Seasonal Provision from Ordinance and Provide Notice in the Newspaper

The revised ordinance eliminates the May 15 through October 1 enforcement limitation on the ordinance. While we still anticipate

weed enforcement to be primarily a seasonal activity, the limitation of enforcement only between May 15 and October 1 has caused some problems given fluctuations in the growing season. Allowing year-round enforcement will provide the authority to cite violations "when necessary." This will be particularly helpful in those years when we have a mild fall.

In the past, Neighborhood Code Enforcement staff have spent an inordinate amount of time trying to identify the owners of vacant lots and other properties where weeds are in violation. At this point, NCE has a good data base, and can reduce the amount of time spent on researching ownership for properties in the data base.

However, to ensure the public and property owners are aware of their responsibility to comply with the ordinance, NCE will publish a specific notice on the ordinance twice during the month of March. Properties then found in violation will be treated to the standard procedure of a violation sign being posted on the property, and a letter sent to the owner of record. The weeds will then be cut after five (5) days. On properties where an owner cannot be located or letters are returned, no further effort will be made to send notices. For properties requiring cutting several times during the course of the year, this procedure will save time and postage.

Fees

A new section has been added in Section 32-6 (c) to allow NCE to recoup administrative costs up to \$100 per property for each enforcement action. This fee is over and above the recoupment of the contractor cost for cutting and cleaning the property, and recording fees for placing a lien on the property. The administrative fee will be assessed at the same cost as the contractor's bill up to a maximum of \$100. The average contractor cost per lot ranges from \$37-\$150. The cost assessed per lot for cutting and administrative fees will run from \$74-\$250.

Section 32-6 (d) Failure to Pay has been deleted and amended to require 30 (thirty) working days for payment, or a filing with the Allen County Auditor's Office will be made so that the amount claimed can be placed on the tax duplicate against the property. Thus, the costs can be collected as property taxes are collected.

Also proposed are several changes and deletions throughout the ordinance, none of which significantly alter the outline, content, or meaning of the ordinance. The changes are simply in the interest of maintaining a concise and direct language format.

RECOMMENDATION

We recommend that the Council adopt the attached ordinance revision and amendments. The changes proposed should reduce our costs for notices, reduce the time between receiving complaints and actually cutting weeds, provide NCE with the authority to expeditiously deal with environmental traffic hazards, provide the authority to cite violations year-round, and make the ordinance easier to understand. Should you have any concerns about the ordinance amendments prior to the Council discussion, please contact Gary Baeten or myself.

GP/GB/GB

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE Amendment to Ordinance Concerning Environmental Public Nuisances (Weed Ordinance)

DEPARTMENT OF REQUESTING ORDINANCE C&ED - Neighborhood Code Enforcement

SYNOPSIS OF ORDINANCE The amendment revises the public notice procedure by allowing the option of notices in newspapers. The amendment also includes the authority to charge administrative and recording fees to the property owner in addition to the actual nuisance removal costs. The ordinance has been amended to remove the enforcement time period limitation of May 1 through October 1.

EFFECT OF PASSAGE Notices in newspapers will reduce the delay between the complaint and nuisance removal. The additional fees will adequately recover the actual administrative cost of the program. Violations could be cited at any time of the year.

EFFECT OF NON-PASSAGE Delays in response time will continue due to inability to locate owners of record. Actual administrative costs will not be recovered. Violations would only be cited between May 1 and October 1.

MONEY INVOLVED (Direct Cost, Expenditures, Savings) Administrative and recording fees will be returned to the Unsafe Building Fund. Fees to be charged are: \$100 for every contractor's invoice exceeding \$100; actual cost will be charged for any bills under \$100.

ASSIGNED TO COMMITTEE (J.N.) _____

11/14/92
2-11-92

Hd)

BILL NO. G-92-02-41

REPORT OF THE COMMITTEE ON REGULATIONS

CLETUS R. EDMONDS, CHAIRMAN
JANET G. BRADBURY, VICE CHAIRWOMAN
RAVINE, TALARICO, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM
WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) concerning Environmental
Public Nuisances (WEED ORDINANCE)

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

C.R. Edmonds

J.G. Bradbury

Ravine
Schmidt

DATED:

Sandra E. Kennedy
City Clerk



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

February 21, 1992

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached fill coverage on the dates of
February 25 and March 3, 1992, in both the News Sentinel
and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-92-01-41 (as amended)
Weed Ordinance

Bill No. G-92-01-42
Skateboard Ordinance

Please send us 4 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 2

LEGAL NOTICE

Notice is hereby given that on the 11th day of
February, 19 92, the Common Council of the City
of Fort Wayne, Indiana, in a Regular Session did pass
the following Bill No. G-92-01-41 (as amended) General
Ordinance No. G-06-92 to-wit:

BILL NO. G-92-01-41 (AS AMENDED)

GENERAL ORDINANCE NO. G-06-92

AN ORDINANCE amending Chapter 13 of the City
of Fort Wayne Code of Laws.

WHEREAS, the present ordinance entitled Environmental Public
Nuisances is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA:

Section 1.

That Chapter 32 of the Municipal Code of the City of Fort
Wayne is repealed.

Section 2.

That there is hereby established and adopted a revised
ordinance which shall constitute a new Chapter 32 of the Municipal
Code of the City of Fort Wayne as follows:

CHAPTER 32. WEEDS AND OTHER ENVIRONMENTAL NUISANCES

- | | |
|------------|---|
| Sec. 32-1. | Purpose and intent. |
| Sec. 32-2. | Definitions. |
| Sec. 32-3. | Application of Chapter. |
| Sec. 32-4. | Prohibited activity. |
| Sec. 32-5. | Determination of violation. |
| Sec. 32-6. | Enforcement |
| Sec. 32-7. | Penalty |
| Sec. 32-8. | Property owner or occupant's right to object
to complaint. |
| Sec. 32-9. | Severability. |

Section 32-1. Purpose and Intent

It is hereby declared to be the purpose of this chapter to
protect the public safety, health, and welfare and enhance the
environment of the people of the city by making it unlawful to
allow an environmental public nuisance to exist.

Section 32-2. Definition

For the purpose of this chapter, the following terms shall
have the following meanings. The word "shall" is mandatory and not
merely directory.

- (a) "Authorized Employee" means an individual designated to make
environmental public nuisance inspections, by the Department
of Neighborhood Code Enforcement or the head of any
governmental department of the City of Fort Wayne, which
department has been designated by the Mayor of the City of

1 to any offense committed against such former ordinance or as to any
2 act done, any penalty, forfeiture or punishment so incurred or any
3 right accrued or claim arising under the former ordinance.

4 Section 5.

5 That this ordinance shall be in full force and effect from and
6 after its passage and any and all necessary approval by the Mayor
7 and due publication.

8 Cletus R. Edmonds
Council Member

Read the third time in full and on motion by Edmonds, seconded by Bradbury, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight
Bradbury, Edmonds, GiaQuinta, Henry, Long,
Lunsey, Schmidt, Talarico

NAYS: None

ABSENT: One
Ravine

ABSTAINED: None

DATED: 2-11-92

Sandra E. Kennedy
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-06-92 on the 11th day of February, 1992.

ATTEST: SEAL

Sandra E. Kennedy
City Clerk

Thomas C. Henry
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of February, 1992, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy
City Clerk

Approved and signed by me this 20th day of February, 1992, at the hour of 8:30 o'clock A.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of

General _____ Ordinance No. G-06-92,
passed by the Common Council on the 11th day of
February, 1992, and that said Ordinance was
duly signed and approved by the Mayor on the 20th day of
February, 1992, and now remains on file and
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne,
Indiana, this 20th day of February, 1992.

(d) Publication of Notice. In lieu of the notice required by Section 32-5 (c), the City, through the

2-25/3-3 SANDRA E. KENNEDY, CITY CLERK

Subscribed and sworn to before me this 3rd day of March 1992

Fort Wayne, IN

Clerk

a notary public in and for said county and state, the
in _____ who, being duly sworn, says that he/
Journal Gazette _____ newspaper of general
 ed in the English language in the (city) (town) of
 and county aforesaid, and that the printed matter
 y, which was duly published in said paper for
 dates of publication being as follows:

F.W. Common Council
(Governmental Unit)

To:

The Journal-Gazette

Dr.

P.O. Box 100

Fort Wayne, IN

County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

326 lines, 1 columns wide equals 326 equivalent lines
at .495 cents per line

\$ 161.37

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 163.37

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 2
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Sheri Tatman

Clerk

March 3

19 92

Title:

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Sheri Tatman who, being duly sworn, says that he/she is Clerk of the Journal Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

2/25/92, 3/3/92

Sheri Tatman

Subscribed and sworn to before me this 3rd day of March 1992.

Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994

F.W. Common Council
(Governmental Unit)

To:

The News-Sentinel

Dr.

P.O. Box 100

Fort Wayne, IN

County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent lines

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LEGAL NOTICE

Notice is hereby given that on the 11th day of February, 1992, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-92-01-41 (as amended) General Ordinance No. G-06-92 to-wit:

BILL NO. G-92-01-41 (AS AMENDED)

GENERAL ORDINANCE NO. G-06-92 AN ORDINANCE amending Chapter 13 of the City of Fort Wayne Code of Laws.

WHEREAS, the present ordinance entitled Environmental Public Nuisances is in need of revision.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1.

That Chapter 32 of the Municipal Code of the City of Fort Wayne is repealed.

Section 2.

That there is hereby established and adopted a revised ordinance which shall constitute a new Chapter 32 of the Municipal Code of the City of Fort Wayne as follows:

CHAPTER 32: WEEDS AND OTHER ENVIRONMENTAL NUISANCES

Sec. 32-1: Purpose and intent.

Sec. 32-2: Definitions.

Sec. 32-3: Application of Chapter.

Sec. 32-4: Prohibited activity.

Sec. 32-5: Determination of violation.

Sec. 32-6: Enforcement

Sec. 32-7: Penalty

Sec. 32-8: Property owner or occupant's right to object to complaint.

Sec. 32-9: Severability.

Section 32-1. Purpose and Intent

It is hereby declared to be the purpose of this chapter to protect the public safety, health, and welfare and enhance the environment of the people of the city by making it unlawful to allow an environmental public nuisance to exist.

Section 32-2. Definition

For the purpose of this chapter, the following terms shall have the following meanings. The word "shall" is mandatory and not merely directory.

(a) "Authorized Employee" means an individual designated to make environmental public nuisance inspections, by the Department of Neighborhood Code Enforcement or the head of any governmental department of the City of Fort Wayne, which department has been designated by the Mayor of the City of Fort Wayne to enforce this chapter.

(b) "City" means the City of Fort Wayne.

(c) "Environmental public nuisance" is:

(1) any growth of weeds, grass or other rank vegetation on private or governmental property which is neglected, disregarded or not cut, mown, or otherwise removed and/or which has attained a height of nine (9) inches or more.

(2) Any accumulation of dead weeds, grass or brush on private or governmental property.

(3) Any poison ivy, ragweed, or other poisonous plant, or plants detrimental to health, growing on any private or governmental property.

(4) Property which has been allowed to become a health or safety hazard, or which has accumulated litter or waste products, unless specifically authorized under existing laws and regulations.

(d) "Excluded property" means land cultivated for gross profit in a commercial, agricultural or horticultural zone; a natural or developed forest, which does not create a health or safety hazard, which conforms to Management Series No. 2 of the Indiana Department of Natural Resources or is registered, or adjoining landowners; vacant and open lands, fields or wooded areas more than one hundred fifty feet (150') from occupied property. However, natural habitats or wildlife habitats in R-1, R-2, and R-3, RA and RB districts (residential) are not to be considered excluded property, and will constitute a violation of this ordinance.

(e) "Governmental property" means real estate within the City of Fort Wayne which is owned, leased, controlled or occupied by the United States, the State of Indiana, or any political subdivision thereof: excluding areas such as interior fields, river bank properties, and wooded lots which are maintained as natural sites by any such political entity.

(f) "Inspector" means an employee of Neighborhood Code Enforcement or any other governmental department of the City of Fort Wayne having law enforcement powers to issue city ordinance violation summons in order to enforce the provisions of this chapter.

(g) "owner" shall be presumed to be any one or more of the following:

(1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants if any; or

(2) The record owner or owners as reflected by the most current records in the township assessor's office of the township in which the real estate is located; or

(3) The purchaser or purchasers of such real estate under any contract for the conditional sale thereof.

(h) "Private property" means all real estate within the City of Fort Wayne, except governmental property.

(i) "Traffic Hazard" means any environmental public nuisance that is potentially dangerous to the existing traffic at the intersection in question, as it may block or prohibit the view of any oncoming traffic. If the inspector finds a violation pursuant to such definition of "traffic hazard", he/she shall find it necessary to waive the five day grace period and abate the problem as soon as possible.

Section 32-3. Application of Chapter

(a) Each department or agency of the United States, the State of Indiana, or any political subdivision

thereof, shall be required to keep governmental property free from environmental public nuisances.

(b) Each owner of private property shall be required to keep that private property free from environmental public nuisances.

Section 32-4. Prohibited Activity

It shall be unlawful for any owner of private property or governmental property to allow an environmental public nuisance to exist on that property, except on excluded property. Section 32-5. Determination of Violation

(a) Complaint. Violations under this Chapter shall be cited by any department of the city which receives a complaint regarding an environmental public nuisance on any property within the city, and they shall forward that complaint to the Department of Neighborhood Code Enforcement.

(b) Assignment of Complaint. The Neighborhood Code Enforcement Office shall thereafter forward the complaint to the inspector for processing, who in turn, shall follow that case through to its resolution.

(c) Notice to Abate. When a complaint addresses private property, the inspector, through the Department of Neighborhood Code Enforcement, shall cause a written notice to abate to be served upon the owner of the property in question, granting that owner a minimum of five (5) calendar days in which to remove the environmental nuisance.

This notice shall be served by a law enforcement officer, by certified mail to the owner, or by a "notice" placard conspicuously posted on the property which contains the following information:

the address of the property, the date of the notice, the address and the telephone number of the Department of Neighborhood Code Enforcement, and a warning that if the environmental public nuisance is not removed within five (5) calendar days after the posting, the City of Fort Wayne will abate said nuisance and seek recovery of the actual costs involved in the removal of the nuisance. The inspector, after posting a notice to abate, shall serve to the owner of the subject property a copy of the notice by regular 1st class United States mail postage prepaid, and provided further that any failure to give such written notice shall not constitute a defense to any action to enforce the provisions of Section 32-4.

(d) Publication of Notice. In lieu of the notice required by Section 32-5 (c), the City, through the Department of Neighborhood Code Enforcement, may publish a notice in a newspaper of general circulation in the city, on two separate occasions, during the month of March, that weeds not cut by May 1st of that year will be cut by the City and the owner of the property charged with the costs under the provisions of Section 32-5 (c). The publication shall contain all of the information required of the "Notice to Abate". The city may cut weeds as many times as is necessary and charge the actual cost of the property owner.

(e) Inspection. Following the expiration of the notice to abate, an inspector shall visually inspect the property to determine whether an environmental public nuisance exists. If an environmental public nuisance exists, action shall be taken to abate that nuisance in accordance with this ordinance.

(f) Abatement by City on Governmental Property. Where the complaint addresses governmental property, and it is determined by the inspector that a violation exists and threatens the health and safety of the people of the City, the inspector may direct the City to immediately enter upon the premises and remove the environmental public nuisance.

Section 32-6. Enforcement.

(a) Citation for Violation. If the inspector that an environmental public nuisance exists on private property and has not been abated as directed in the written notice to abate, or Section 32-5 (d), that inspector may cause a citation for violation of city ordinance to be issued to the offending property owner.

(b) Abatement by City on Private Property. In addition to the issuance of a citation for violation of the City Ordinance under Section 32-6 (a), the inspector, in the name of the Controller of the City of Fort Wayne, may issue a request to the City of Fort Wayne to abate the environmental public nuisance, and shall thereafter furnish the Controller with a statement of the actual cost involved in the removal of the nuisance. The actual abatement may be assigned to a city department or contracted out through standard procedures.

(c) Responsibility of Offender for Costs of Enforcement. Neighborhood Code Enforcement shall make a statement of the actual cost incurred in eliminating the environmental public nuisance. The costs shall include: cost of removal of the public nuisance, administrative fees, not to exceed \$100 and all recording fees associated with the collection of the outstanding balance. Said statement shall be delivered to the property owner by first-class mail. The owner shall pay the amount noted to the city of Fort Wayne within thirty (30) days after receipt, which shall be deposited in the Unsafe Building Fund.

(d) Failure to Pay. If the owner fails to pay the amount within thirty (30) days after receiving a statement, a copy of all costs shall be filed in the Office of the Auditor of Allen County for the purpose of placing the amount claimed on the tax duplicate against the property so that the amount claimed can be collected as taxes are collected, subject to the limitations above.

Section 32-7. Penalty.

Except as otherwise provided herein, any owner or occupant violating this chapter shall be fined not less than twenty-five Dollars (\$25). Each day such violation is permitted to continue may be deemed to constitute a separate offense. Each second and subsequent offense shall carry a minimum fine of not

less than fifty dollars (\$50). In addition to any fine imposed herein, the offender shall be responsible for all costs of abatement and the twenty-five dollar (\$25) record search fee.

Section 32-8. Property Owner or Occupant's Rights to Object to Complaint.

Upon receipt of a Notice to Abate, the property owner or occupant served, or his duly authorized representative may notify the Department of Neighborhood Code Enforcement of an intent to object to any Notice to Abate. This correspondence shall be in writing, and shall specify the street address, and legal description of the property involved. Any such correspondence must be received by the Department of Neighborhood Code Enforcement within the amount of time set out in the Notice to Abate.

Upon receipt of such correspondence, the Department of Neighborhood Code Enforcement shall provide copies of same to the City Attorney and to the inspector involved, who shall cause the objection to be investigated. No further action shall be pursued against the owner to abate the environmental public nuisance until resolution of the objection thereto.

Section 32-9. Severability.

If any provision or term of this chapter, or any application thereof, is held invalid, the invalidity shall not affect other applications of the provisions or terms of this chapter which reasonably can be given effect without the invalid provision or term or the application thereof.

Section 3.

It is the express intent of this Ordinance to adopt I.C. 36-7-10-3.

Section 4.

Notwithstanding any provisions of this ordinance, this ordinance shall not be construed to repeal any former ordinance as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under the former ordinance.

Section 5.

That this ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and due publication.

Cletus R. Edmonds

Council Member

Read the third time in full and on motion by Edmonds, seconded by Bradbury, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Eight

Bradbury, Edmonds, GiaQuinta, Henry, Long, Lunsey, Schmidt, Talarico

NAYS: None

ABSENT: One

Ravine

ABSTAINED: None

DATED: 2-11-92

Sandra E. Kennedy

City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-06-92 on the 11th day of February, 1992.

ATTEST:

Sandra E. Kennedy

City Clerk

Thomas C. Henry

Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of February, 1992, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy

City Clerk

Approved and signed by me this 20th day of February, 1992, at the hour of 8:30 o'clock A.M., E.S.T.

Paul Helmke

Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-06-92, passed by the Common Council on the 11th day of February, 1992, and that said Ordinance was duly signed and approved by the Mayor on the 20th day of February, 1992, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 20th day of February, 1992.

SANDRA E. KENNEDY, CITY CLERK

2-25/3-3

and state, the
says that he/
aper of general
city) (town) of
printed matter
said paper for
es of publication being as follows:

is 3rd day of March, 19 92
Notary Public Whitley County, IN
SHELLEY R. LARUE

F.W. Common Council
(Governmental Unit)

To: The News-Sentinel Dr.
P.O. Box 100
Fort Wayne, IN

County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
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Total number of lines in notice

COMPUTATION OF CHARGES

326 lines, 1 columns wide equals 326 equivalent lines
at .495 cents per line

\$ 161.37

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 163.37

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 2

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: March 3, 19 92

Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Sheri Tatman who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

2/25/92, 3/3/92

Subscribed and sworn to before me this 3rd day of March, 19 92

My commission expires: March 3, 1994

Notary Public Whitley County, IN
SHELLEY R. LARUE